

REMARKS

Claims 1-55 were examined in the Office Action. Claim 38 is amended. Accordingly, Claims 1-55 remain pending. In view of the above claim amendments and the following remarks, Applicant respectfully requests reconsideration and allowance of all pending claims.

Request for Interview

Before issuing an Office Action addressing this response, Applicant requests that the undersigned be contacted for purposes of scheduling an interview.

§112 Rejection

Claim 38 stands rejected under 35 U.S.C. § 112, 2nd paragraph as being indefinite due to the use of the word "selectively". While Applicant disagrees with the Office, claim 38 has been amended, as indicated above, to overcome this rejection and to leave only the obviousness rejections for purposes of appeal.

Rejections Under 35 U.S.C. §103

Applicant continues to maintain that the Office has failed to establish a *prima facie* case of obviousness for the reasons set forth in the last response. Applicant would very much like to avoid the time and expense of filing an appeal in this case. Nonetheless, it appears that the present state of prosecution may require an appeal. In a last effort to attempt to advance prosecution short of appeal, Applicant respectfully submits as follows.

1 Applicant respectfully submits that the outstanding rejections under
2 35 U.S.C. §103(a) fail to establish a *prima facie* case of obviousness. Further, in
3 accordance with MPEP §2142 (which states in part “[i]f the examiner does not
4 produce a *prima facie* case, the applicant is under no obligation to submit evidence
5 of nonobviousness”), Applicant, in good faith and belief that a *prima facie* case of
6 obviousness has not been established in the above of rejections, requests that all
7 outstanding rejections under 35 U.S.C. §103(a) be reconsidered and withdrawn.

8 As set forth in MPEP §§2142 and 2143, a *prima facie* case of obviousness
9 has three basic requirements. First, there must be some suggestion or motivation,
10 either in the references themselves or in the knowledge generally available to one
11 of ordinary skill in the art, to modify the reference or to combine reference
12 teachings. Second, there must be a reasonable expectation of success. Finally, the
13 prior art reference (or references when combined) must teach or suggest all the
14 claim limitations. Applicant respectfully submits that the proposed combinations
15 of references, fail to meet at least the third requirement above (namely, the cited
16 references do not teach or suggest all of the claim elements). Accordingly, no
17 *prima facie* case of obviousness has been established.

18 Further, MPEP §2143.01 entitled “Suggestion or Motivation To Modify the
19 References” instructs as follows.

20 First, a modification proposed by the Office cannot render the prior
21 unsatisfactory for its intended purpose. Second, the modification proposed by the
22 Office cannot change a principle of operation of a reference. Specifically, this
23 section of the MPEP provides a discussion of each of these notions under their
24 own headings. This discussion has been reproduced below for the convenience of
25 the Office.

1 THE PROPOSED MODIFICATION CANNOT RENDER THE
2 PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE

3 If proposed modification would render the prior art invention being
4 modified unsatisfactory for its intended purpose, then there is no suggestion
5 or motivation to make the proposed modification. In re Gordon, 733 F.2d
6 900, 221 USPQ 1125 (Fed. Cir. 1984) (Claimed device was a blood filter
7 assembly for use during medical procedures wherein both the inlet and
8 outlet for the blood were located at the bottom end of the filter assembly,
9 and wherein a gas vent was present at the top of the filter assembly. The
10 prior art reference taught a liquid strainer for removing dirt and water from
11 gasoline and other light oils wherein the inlet and outlet were at the top of
12 the device, and wherein a pet-cock (stopcock) was located at the bottom of
13 the device for periodically removing the collected dirt and water. The
14 reference further taught that the separation is assisted by gravity. The Board
15 concluded the claims were prima facie obvious, reasoning that it would
16 have been obvious to turn the reference device upside down. The court
17 reversed, finding that if the prior art device was turned upside down it
18 would be inoperable for its intended purpose because the gasoline to be
19 filtered would be trapped at the top, the water and heavier oils sought to be
20 separated would flow out of the outlet instead of the purified gasoline, and
21 the screen would become clogged.).

22 "Although statements limiting the function or capability of a prior art
23 device require fair consideration, simplicity of the prior art is rarely a
24 characteristic that weighs against obviousness of a more complicated device
25 with added function." In re Dance, 160 F.3d 1339, 1344, 48 USPQ2d 1635,
1638 (Fed. Cir. 1998) (Court held that claimed catheter for removing
obstruction in blood vessels would have been obvious in view of a first
reference which taught all of the claimed elements except for a "means for
recovering fluid and debris" in combination with a second reference
describing a catheter including that means. The court agreed that the first
reference, which stressed simplicity of structure and taught emulsification
of the debris, did not teach away from the addition of a channel for the
recovery of the debris.).

26 THE PROPOSED MODIFICATION CANNOT CHANGE THE
27 PRINCIPLE OF OPERATION OF A REFERENCE

28 If the proposed modification or combination of the prior art would
29 change the principle of operation of the prior art invention being modified,
30 then the teachings of the references are not sufficient to render the claims

prima facie obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were directed to an oil seal comprising a bore engaging portion with outwardly biased resilient spring fingers inserted in a resilient sealing member. The primary reference relied upon in a rejection based on a combination of references disclosed an oil seal wherein the bore engaging portion was reinforced by a cylindrical sheet metal casing. Patentee taught the device required rigidity for operation, whereas the claimed invention required resiliency. The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.). MPEP § 2143.01

The Claim Rejections

Claims 14, 16, 17 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,012,098 (hereinafter Bayeh) in view of "XHTML™1.0: The Extensible HyperText Markup Language" (hereinafter Pemburton). Applicant respectfully traverses the rejection.

Claim 14 recites in part, "emitting the formatted data in a manner in which an XML response can be sent to the client *without having to build a hierarchical tree that represents the XML response.*"

The Office Action acknowledges that Bayeh makes no mention of building a hierarchical tree. The Office Action then interprets its absence to mean that Bayeh emits data "in a manner in which" a tree would not have to be built.

Applicant respectfully disagrees. Either Bayeh teaches emitting the formatted data in a manner in which a tree would not have to be built, or it does not. For example, Applicant could find no disclosure of providing power to the workstation 10 of Bayeh's Fig. 1. Applicant believes that the absence of a teaching to provide power the workstation cannot be interpreted to mean that the

1 workstation can operate without power. Bayeh simply does not teach or suggest
2 operating the workstation 10 without power. Likewise, Bayeh simply does not
3 teach or suggest "emitting the formatted data in a manner in which an XML
4 response can be sent to the client *without having to build a hierarchical tree that*
5 *represents the XML response*", as recited in claim 14.

6 The Office further argues that the absence of a tree in Bayeh is sufficient to
7 anticipate the negative limitation. Applicant disagrees. Using this logic then, the
8 Office would argue that the fact that Bayeh does not disclose power being applied
9 to its workstation anticipates workstations that work without power. The Office's
10 logic in this regard is flawed and misplaced. In addition, the Office argues that
11 "Bayeh sends the markup language data in data streams [] not trees, that is,
12 HTML/XML is represented as strings of text, not a hierarchical tree structure...."
13 This statement appears to disregard the recited subject matter which recites as
14 follows:

15
16 emitting formatted data from the emitter object, the emitter object
17 emitting the formatted data in a manner in which an XML response can be
18 sent to the client without having to build a hierarchical tree that represents
19 the XML response.

20 In the context of the claimed subject matter and in view of the discussion in
21 the Specification, Applicant does not understand the Office's logic.

22 Claims 16, 17 and 19 depend from claim 14 and, therefore, are patentable
23 over the cited references for at least the reasons that claim 14 is patentable over
24 the cited references.
25

1 Claims 1-7, 10-11, 13, 31-32, 34-35, 37, 38 and 48-51 stand rejected under
2 35 U.S.C. §103(a) as being unpatentable over Bayeh in view of Pemburton and
3 further in view of "Build Servlet-Based Enterprise Web Applications",
4 (hereinafter Philion). Applicant respectfully traverses these rejections.

5
6 Claims 1-4 and 48

7 Independent claim 1 recites in part, "sending said portion to a client *before*
8 *the XML document is entirely built.*" This feature is supported in the Specification
9 at least at page 8, lines 16-20.

10 Bayeh Teaches the Rendering Servlet Receives the Data Stream
11 when the Entire XML Data Stream is Formatted by the Data Servlet

12 At column 11, lines 20-24, Bayeh discloses, "[w]hen the *entire XML data*
13 *stream* required for the database results has been formatted by the data servlet, that
14 data stream is sent on to the next servlet in the chain at Step 270. In the preferred
15 embodiment, the next Servlet is the rendering servlet" (emphasis added). At
16 column 10, lines 35-37, Bayeh discloses, "...the rendering servlet *must* parse the
17 XML data stream, and reformat it into HTML" (emphasis added). The Office
18 Action also asserts, "[i]t would have been obvious to replace the HTML of Bayeh
19 with XHTML... ." Thus, it appears that the Office Action is modifying the
20 function of the rendering servlet to output XHTML instead of HTML.

21 However, the Office Action's proposed combination of Bayeh and
22 Pemburton does not teach or suggest "sending said portion to a client *before the*
23 *XML document is entirely built*" because Bayeh discloses "when the entire XML
24 data stream ... has been formatted." In addition, modifying this functionality in
25

1 Bayeh would change a principle of its operation which, as instructed by the MPEP
2 above, does not support a *prima facie* case of obviousness,

3 Pemburton is cited as disclosing XHTML instead of HTML, but this
4 appears to be directed to the function of the *rendering* servlet, and does not
5 overcome the deficiency of Bayeh's *data* servlet, which formats the entire XML
6 data stream. As described below, Philion does not overcome the deficiencies of
7 Bayeh and Pemburton.

8
9 Philion Discloses a Servlet For Sending HTML but is Silent
10 Regarding Sending an XML Document Before the XML Document
11 is Entirely Built

12 The Office Action cites pp.5-6 of Philion as disclosing sending a partial
13 result to a client. Applicant respectfully disagrees. Rather, Philion discloses,
14 "[t]he technique of writing the generated HTML directly to the PrintWriter has
15 more advantages than just reducing the number of objects created....
16 "PrintWriter.flush() will force all the data in the output stream buffer to be sent
17 back to the browser, allowing the browser to display the data, even if the servlet
18 hasn't finished generating the page" (emphasis added).

19 Applicant respectfully asserts that an HTML page is not equivalent to an
20 *XML document*. The disclosure that the HTML page has not been generated in
21 Philion in no way teaches or suggests sending *portions of an XML document*
22 *before the XML document has been entirely built*. Thus, this cited feature of
23 Philion does not overcome the deficiencies of Bayeh and Pemburton as described
24 above.

25 Further, this feature of Philion also appears to correspond to the *Rendering*
Servlet disclosed in Bayeh. However, in Bayeh, the data stream is formatted by a

1 **Data** Servlet, which sends the data to the Rendering Servlet *when the entire XML*
2 *data stream has been formatted*. Philion simply does not address the formatting of
3 an XML document before it is provided to the Rendering Servlet. Thus, Philion
4 fails to teach or suggest sending *portions of an XML document before the XML*
5 *document has been entirely built*.

6 Still further, there is no disclosure in Philion directed toward how Philion's
7 HTML technique can be modified for XML. Philion merely discloses on page 2,
8 paragraph 3 that "[s]ervlet response streaming techniques are also useful for much
9 more than just generating HTML. For servlets, they can be applied when
10 generating XML, ..., or any other protocol servlets support." This disclosure
11 merely states that servlets can be applied when generating XML, which is a
12 function already performed by Bayeh's **Data** Servlet (as cited by the Office Action
13 in the rejection).

14 In addition, modifying Bayeh in a manner such that it would send less than
15 an entire data stream before the data stream is fully processed would, at the very
16 minimum, change its principle of operation which, as noted in the guidance
17 provided by the MPEP above, is insufficient to establish a *prima facie* case of
18 obviousness. See, e.g. Bayeh, column 11, lines 20-24.

19 To summarize, Bayeh discloses a data servlet that formats an entire XML
20 data stream before sending the formatted data stream to a rendering servlet.
21 Pemberton is cited as disclosing XHTML, which does not overcome the
22 deficiencies of Bayeh. Philion is cited as disclosing sending of partial results to a
23 client when it is ready. However, as previously described, Philion discloses
24 sending an HTML page, which is not equivalent to an *XML document*, as recited
25 in independent claim 1. Also, as best the Applicant can determine from the Office

1 Action, the cited disclosure of Philion appears to be directed to a modification of
2 Bayeh's rendering servlet, which does not address Bayeh's data servlet that sends
3 a data stream to the rendering servlet when the entire XML data stream has been
4 formatted by the data servlet. Further, modifying Bayeh's teachings with those of
5 Philion would change Bayeh's principle of operation.

6 In view of the above arguments, Applicant respectfully asserts that
7 independent claim 1 is patentable over the cited combination of Bayeh, Pemburton
8 and Philion because, *inter alia*, no combination of these references teaches or
9 suggests "sending said portion to a client *before the XML document is entirely*
10 *built*", as recited in claim 1. In addition, modifying Bayeh as suggested by the
11 Office would change its principle of operation which, as instructed by the MPEP,
12 is insufficient to establish a *prima facie* case of obviousness. For at least the same
13 reasons, claims 2-4, and 48 that depend from claim 1 are also patentable over the
14 cited references.

15 The dependent claims have further bases of patentability. For example,
16 claim 48 recites in part, "so that a hierarchical order of the entire XML document
17 is preserved." This feature is supported by at least page 20, lines 10-12 of the
18 Specification as filed. None of the cited portions of Bayeh, Pemburton and
19 Philion address preserving a hierarchical order of an XML document.

20
21 Claims 5-7, 10-11, 13 and 49

22 Independent claim 5 recites in part, "sending the portion to the client *before*
23 *the XML document is entirely built ...*". This feature is supported in the
24 Specification at least at page 8, lines 16-20.

25

1 Applicant respectfully asserts that the combination of Bayeh, Pemburton
2 and Philion does not teach or suggest "*before the XML document is entirely built*",
3 as recited in independent claim 5. As argued above in conjunction with the
4 rejection of claim 1, Bayeh discloses a data servlet that formats an entire XML
5 data stream before sending the formatted data stream to a rendering servlet.
6 Pemburton is cited as disclosing XHTML, which does not overcome the
7 deficiencies of Bayeh. Philion is cited as disclosing sending of partial results to a
8 client when it is ready. However, as previously described, Philion discloses
9 sending an *HTML page*, which is not equivalent to an *XML document*, as recited
10 in independent claim 5. Also, as best the Applicant can determine from the Office
11 Action, the cited disclosure of Philion appears to be directed to a modification of
12 Bayeh's rendering servlet which does not address Bayeh's data servlet that sends a
13 data stream to the rendering servlet when the entire XML data stream has been
14 formatted by the data servlet. In addition, modifying the teachings of Bayeh with
15 those of Philion would appear to change a principle of Bayeh's operation.

16 In view of the above arguments, Applicant respectfully asserts that
17 independent claim 5 is patentable over the cited combination of Bayeh, Pemburton
18 and Philion because no combination of these references teaches or suggests "...
19 *before the XML document is entirely built*", as recited in claim 5. For at least the
20 same reasons, claims 6, 7, 10-11, 13 and 49 that depend from claim 5 are also
21 patentable over the cited references.

22 The dependent claims have further bases of patentability. For example,
23 claim 49 recites in part, "so that a hierarchical order of the entire XML document
24 is preserved." This feature is supported by at least page 20, lines 10-12 of the
25

1 Specification as filed. None of the cited portions of Bayeh, Pemburton and
2 Philion address preserving a hierarchical order of an XML document.

3
4 Claims 31-32, 34-35, 37 and 50

5 Independent claim 31 recites in part, "send the response portions to the
6 client *before the XML document is entirely built ...*". This feature is supported in
7 the Specification at least at page 8, lines 16-20.

8 Applicant respectfully asserts that the combination of Bayeh, Pemburton
9 and Philion does not teach or suggest "*before the XML document is entirely built*",
10 as recited in independent claim 31. As argued above in conjunction with the
11 rejection of claim 1, Bayeh discloses a data servlet that formats an entire XML
12 data stream before sending the formatted data stream to a rendering servlet.
13 Pemburton is cited as disclosing XHTML, which does not overcome the
14 deficiencies of Bayeh. Philion is cited as disclosing sending of partial results to a
15 client when it is ready. However, as previously described, Philion discloses
16 sending an HTML page, which is not equivalent to an *XML document*, as recited
17 in independent claim 31. Also, as best the Applicant can determine from the
18 Office Action, the cited disclosure of Philion appears to be directed to a
19 modification of Bayeh's rendering servlet, which does not address Bayeh's data
20 servlet that sends a data stream to the rendering servlet when the entire XML data
21 stream has been formatted by the data servlet. In addition, modifying Bayeh's
22 teachings as suggested by the Office would change Bayeh's principle of operation.

23 In view of the above arguments, Applicant respectfully asserts that
24 independent claim 31 is patentable over the cited combination of Bayeh,
25 Pemburton and Philion because no combination of these references teaches or

1 suggests "... *before the XML document is entirely built*", as recited in claim 31.
2 For at least the same reasons, claims 32, 34-35 and 50 that depend from claim 31
3 are also patentable over the cited references.

4 In addition, claim 37 recites that the emitter object is to emit a portion of
5 the client response before the client response is entirely built. As pointed out
6 above, modifying Bayeh with Philion's teachings would, at a minimum, change
7 Bayeh's principles of operation. This, as instructed by the MPEP, does not give
8 rise to a *prima facie* case of obviousness.

9 The dependent claims have further bases of patentability. For example,
10 claim 50 recites in part, "so that a hierarchical order of the entire XML document
11 is preserved." None of the cited portions of Bayeh, Pemburton and Philion
12 address preserving a hierarchical order of an XML document.

13
14 Claims 38 and 51

15 Claims 38 and 51 depend from independent claim 37. Independent
16 claim 37 recites in part, "...format the data ... into an appropriate XML syntax,
17 wherein the emitter object is to emit the portion of the client response *before the*
18 *client response is entirely built ...*".

19 Applicant respectfully asserts, as pointed out above, that the combination of
20 Bayeh, Pemburton and Philion does not teach or suggest "*before the client*
21 *response is entirely built*", as recited in independent claim 37. As claims 38 and
22 51 depend from claim 37, they are also patentable over the cited references.

23 In addition, these dependent claims have further bases of patentability. For
24 example, claim 38 recites in part, "without having to build a hierarchical tree that
25 represents the client response." None of the cited portions of Bayeh, Pemburton

1 and Philion address building a hierarchical tree of an XML document. As
2 previously argued in conjunction with the rejection of claim 14, Applicant
3 respectfully asserts this failure to mention building a hierarchical tree in
4 generating an XML document cannot be properly interpreted as teaching that an
5 XML document can be send without building a hierarchical tree.

6 Further, dependent claim 51 recites in part, "so that a hierarchical order of
7 an XML document forming the response is preserved." None of the cited portions
8 of Bayeh, Pemburton and Philion address preserving a hierarchical order of an
9 XML document.

10
11 Rejections of Claims 8, 9, 33, 41-43, 52 and 55

12 Claims 8, 9, 33, 41-43, 52 and 55 stand rejected under 35 U.S.C. §103(a) as
13 being unpatentable over Bayeh, Pemburton and Philion as applied to claim 5, 14
14 and 31, and further in view of "Extensions for Distributed Authoring on the World
15 Wide Web-WebDAV, Internet Draft (hereinafter Goland). Applicant respectfully
16 traverses these rejections.

17 Applicant respectfully submits that these outstanding rejections under
18 35 U.S.C. §103(a) fail to establish a *prima facie* case of obviousness because
19 combining the cited references as proposed by the Office Action do not teach or
20 suggest every element of the claims.

21
22 Claims 8, 9, 33

23 Claims 8 and 9 depend from claim 5, and claim 33 depends from claim 31.
24 As previously discussed in the rejections of independent claims 5 and 31, the
25 combination of Bayeh, Pemburton and Philion does not teach each and every

1 claim element. Goland is cited as disclosing a multi-status response. However,
2 this disclosure does not overcome the aforementioned deficiencies of Bayeh,
3 Pemburton and Philion. Therefore, independent claims 5 and 31 are patentable
4 over the cited combination of Bayeh, Pemburton, Philion and Goland. For at least
5 the same reasons, claims 8 and 9 that depend from claim 5 and claim 33 that
6 depends from claim 31 are also patentable over the cited combination.

7
8 Claims 41-43, 52 and 55

9 Independent claim 41 recites in part, "sending the response portion to the
10 client *before the XML response is entirely built ...* ." This feature is supported in
11 the Specification at least at page 8, lines 16-20. This limitation is similar to one of
12 independent claim 31, the rejection of which is discussed above.

13 Applicant respectfully asserts that the combination of Bayeh, Pemburton,
14 Philion and Goland does not teach or suggest "*before the XML response is entirely*
15 *built*", as recited in independent claim 41. As previously discussed in the
16 rejection of independent claim 31, the combination of Bayeh, Pemburton and
17 Philion does not teach or suggest the feature "*before the XML response is entirely*
18 *built*". Goland is cited as disclosing a multi-status response. However, this
19 disclosure does not overcome the aforementioned deficiencies of Bayeh,
20 Pemburton and Philion. Therefore, independent claim 41 is patentable over the
21 cited combination of Bayeh, Pemburton, Philion and Goland. For at least the same
22 reasons, claims 42-43, 52 and 55 that depend from claim 41 are also patentable
23 over the cited combination.

24 The dependent claims have further bases of patentability. For example,
25 claim 52 recites in part, "so that a hierarchical order of an XML document forming

1 the XML response is preserved.” None of the cited portions of Bayeh, Pemburton
2 and Philion address preserving a hierarchical order of an XML document.

3
4 Rejections of Claims 20-23, 25, 27, 30, 44-47 and 54

5 Claims 20-23, 25, 27, 30, 44-47 and 54 stand rejected under
6 35 U.S.C. §103(a) as being unpatentable over Bayeh and Pemburton, and further
7 in view of Goland. Applicant respectfully traverses.

8 Applicant respectfully submits that these outstanding rejections under
9 35 U.S.C. §103(a) fail to establish a *prima facie* case of obviousness because
10 combining the cited references as proposed by the Office Action do not teach or
11 suggest every element of the claims.

12
13 Claims 20-23, 25, 27, 30 and 54

14 Claim 20 recites in part, “before the XML response is entirely built.” This
15 feature is supported in the Specification at least at page 8, lines 16-20. This
16 limitation is similar to one of independent claim 31, the rejection of which is
17 discussed above.

18 Applicant respectfully asserts that the combination of Bayeh, Pemburton,
19 and Goland does not teach or suggest “*before the XML response is entirely built*”,
20 as recited in independent claim 20. As previously discussed in the rejection of
21 independent claim 31, the combination of Bayeh, Pemburton and Philion does not
22 teach or suggest the feature “*before the XML response is entirely built*”. Goland is
23 cited as disclosing a multi-status response. However, this disclosure does not
24 overcome the aforementioned deficiencies of Bayeh, Pemburton and Philion.
25 Therefore, independent claim 20 is patentable over the cited combination of

1 Bayeh, Pemburton and Goland. For at least the same reasons, claims 21-23, 25,
2 27, 30 and 54 that depend from claim 20 are also patentable over the cited
3 combination.

4
5 Claims 44-47

6 Claim 44 recites in part, "build a portion of an XML response ... that is to
7 be sent to the client before the XML response is entirely built." This feature is
8 supported in the Specification at least at page 8, lines 16-20. This limitation is
9 similar to one of independent claim 31, the rejection of which is discussed above.

10 Applicant respectfully asserts that the combination of Bayeh, Pemburton,
11 and Goland does not teach or suggest "*before the XML response is entirely built*",
12 as recited in independent claim 44. As previously discussed in the rejection of
13 independent claim 31, the combination of Bayeh, Pemburton and Philion does not
14 teach or suggest the feature "*before the XML response is entirely built*". Goland is
15 cited as disclosing a multi-status response. However, this disclosure does not
16 overcome the aforementioned deficiencies of Bayeh, Pemburton and Philion.
17 Therefore, independent claim 44 is patentable over the cited combination of
18 Bayeh, Pemburton and Goland. For at least the same reasons, claims 45-47 that
19 depend from claim 44 are also patentable over the cited combination.

20
21 Rejections of Claims 24, 26, 28 and 53

22 Claims 24, 26, 28 and 53 stand rejected under 35 U.S.C. §103(a) as being
23 unpatentable over Bayeh, Pemburton and Goland, and further in view of Philion.
24 Applicant respectfully traverses.

25

1 Applicant respectfully submits that these outstanding rejections under
2 35 U.S.C. §103(a) fail to establish a *prima facie* case of obviousness because
3 combining the cited references as proposed by the Office Action do not teach or
4 suggest every element of the claims.

5
6 Claims 24, 26 and 28

7 Claims 24, 26 and 28 depend from independent claim 20. As previously
8 discussed in the rejections of independent claim 20, the combination of Bayeh,
9 Pemburton and Goland does not teach each and every claim element. Philion is
10 cited as disclosing sending a partial result to a client when it is ready. However, as
11 previously described, Philion discloses sending an HTML page, which is not
12 equivalent to an *XML response*, as recited in independent claim 20. Also, as best
13 the Applicant can determine from the Office Action, the cited disclosure of Philion
14 appears to be directed to a modification of Bayeh's rendering servlet, which does
15 not address Bayeh's data servlet that sends a data stream to the rendering servlet
16 when the entire XML data stream has been formatted by the data servlet. Thus,
17 Philion does not overcome the deficiencies of Bayeh, Pemburton and Goland as
18 discussed above in conjunction with the rejection of claim 20.

19 In view of the above arguments, Applicant respectfully asserts that
20 independent claim 20 is patentable over the cited combination of Bayeh,
21 Pemburton, Goland and Philion because no combination of these references
22 teaches or suggests "... *before the XML response is entirely built*", as recited in
23 claim 20. For at least the same reasons, claims 24, 26 and 28 that depend from
24 claim 20 are also patentable over the cited references.
25

1 Claim 53

2 Claim 53 depends from independent claim 44. As previously discussed in
3 the rejections of independent claim 44, the combination of Bayeh, Pemburton and
4 Goland does not teach each and every claim element. Philion is cited as disclosing
5 sending a partial result to a client when it is ready. However, as previously
6 described, Philion discloses sending an HTML page, which is not equivalent to an
7 XML response, as recited in independent claim 44. Also, as best the Applicant
8 can determine from the Office Action, the cited disclosure of Philion appears to be
9 directed to a modification of Bayeh's rendering servlet, which does not address
10 Bayeh's data servlet that sends a data stream to the rendering servlet when the
11 entire XML data stream has been formatted by the data servlet. Thus, Philion
12 does not overcome the deficiencies of Bayeh, Pemburton and Goland as discussed
13 above in conjunction with the rejection of claim 44.

14 In view of the above arguments, Applicant respectfully assert that
15 independent claim 44 is patentable over the cited combination of Bayeh,
16 Pemburton, Goland and Philion because no combination of these references
17 teaches or suggests "... *before the XML response is entirely built*", as recited in
18 claim 44. For at least the same reasons, claim 53 that depends from claim 44 is
19 also patentable over the cited references.

20
21 Rejection of Claims 12, 15, 36, 39 and 40

22 Claims 12, 15, 36, 39 and 40 stand rejected under 35 U.S.C. §103(a) as
23 being unpatentable over Bayeh, Pemburton and Philion, with Mukhi "ServerTest"
24 8/17/1998 (hereinafter Mukhi) being cited as evidence regarding buffered streams.
25 Applicant respectfully traverses these rejections.

1 Applicant respectfully submits that these outstanding rejections under
2 35 U.S.C. §103(a) fail to establish a *prima facie* case of obviousness because
3 combining the cited references as proposed by the Office Action do not teach or
4 suggest every element of the claims.

5
6 Claims 12, 15 and 36

7 Claims 12 and 15 depend from claim 5, and claim 36 depends from
8 claim 31. As previously discussed in the rejections of independent claims 5
9 and 31, the combination of Bayeh, Pemburton and Philion does not teach each and
10 every claim element. Mukhi is cited as evidence regarding buffered streams.
11 However, such a disclosure does not overcome the aforementioned deficiencies of
12 Bayeh, Pemburton and Philion. Therefore, independent claims 5 and 31 are
13 patentable over the cited combination of Bayeh, Pemburton, Philion and Mukhi.
14 For at least the same reasons, claims 12 and 15 that depend from claim 5 and
15 claim 36 that depends from claim 31 are also patentable over the cited
16 combination.

17
18 Claims 39 and 40

19 Claims 39 and 40 depend from claim 37. As previously discussed in the
20 rejections of independent claim 37, combination of Bayeh and Pemburton does not
21 teach "before the client response is entirely built." The Office Action cites Philion
22 in this rejection as disclosing "buffering a response portion in a buffered and
23 sending the portion (pp.5-6)." However, as previously mentioned, Philion
24 discloses sending an HTML page, which is not equivalent to an ***XML response***.
25 Also, as best the Applicant can determine from the Office Action, the cited

1 disclosure of Philion appears to be directed to a modification of Bayeh's rendering
2 servlet, which does not address Bayeh's data servlet that sends a data stream to the
3 rendering servlet when the entire XML data stream has been formatted by the data
4 servlet. Thus, Philion does not overcome the deficiencies of Bayeh and
5 Pemburton. The Office Action cites Mukhi "as evidence that buffered streams
6 have a threshold." However, such a disclosure does not overcome the
7 aforementioned deficiencies of Bayeh, Pemburton and Philion. Therefore,
8 independent claim 37 is patentable over the cited combination of Bayeh,
9 Pemburton, Philion and Mukhi. For at least the same reasons, claims 39 and 40
10 that depend from claim 37 are also patentable over the cited combination.

11 12 Rejection of Claim 29

13 Claim 29 stands rejected under 35 U.S.C. §103(a) as being unpatentable
14 over Bayeh, Pemburton and Goland, with Mukhi being cited as evidence regarding
15 buffered streams. Applicant respectfully traverses this rejection.

16 Applicant respectfully submits that these outstanding rejections under
17 35 U.S.C. §103(a) fail to establish a *prima facie* case of obviousness because
18 combining the cited references as proposed by the Office Action do not teach or
19 suggest every element of the claims.

20 Claim 29 depends from claim 20. As previously discussed in the rejections
21 of independent claim 20, the combination of Bayeh, Pemburton and Goland does
22 not teach each and every claim element. Mukhi is cited as disclosing sending a
23 partial result to a client when it is ready. Such a disclosure does not overcome the
24 deficiencies of Bayeh, Pemburton and Goland as discussed above in conjunction
25 with the rejection of claim 20.

1 In view of the above arguments, Applicant respectfully asserts that
2 independent claim 20 is patentable over the cited combination of Bayeh,
3 Pemburton, Goland and Mukhi because no combination of these references
4 teaches or suggests "... *before the XML response is entirely built*", as recited in
5 claim 20. For at least the same reasons, claim 29, which depends from claim 20 is
6 also patentable over the cited references.

7
8 **Conclusion**

9 In view of the foregoing, Applicant believes all pending claims are in
10 condition for allowance. Accordingly, Applicant respectfully requests that a
11 Notice of Allowability be issued. If the Office's next anticipated action is to be
12 anything other than issuance of a Notice of Allowability, Applicant respectfully
13 request that the Examiner contact the undersigned (telephone number provided
14 below) to schedule an interview and discuss an appeal in this case.

15
16 Respectfully Submitted,

17
18 Dated: 5/2/05

19 By: 

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